



Voice of CA <voiceofca@gmail.com>

Request regarding - Extension of specified date of filing Tax Audit Report and other forms falling due on or before 15th January, 2022

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Wed, Jan 5, 2022 at 12:52 PM

To: fmo@nic.in

Cc: rsecy@nic.in

Smt Nirmala Sitaraman Ji**Hon'ble Minister of Finance****Government of India****North Block****New Delhi.****Respected Madam,**

At the outset, and as you would kindly be aware, the Voice of CA [VoCA] is a not-for-profit organization registered under the Societies Registration Act. The number of subscribers to VoCA, founded in March, 2009 - to facilitate sharing of thoughts on matters concerning all walks of life, in addition, of course, to the matters of professional enrichment - aggregates to over 65,000. Majority of them are Chartered Accountants. The aims and objectives of the VoCA include - enabling members to serve their employers, clients and the nation as a whole in a better manner and represent members before the legislators/regulators.

Madam, with regard to the captioned subject matter, may this find Merits with your goodself,

Madam, at the outset, while having the fullest faith and confidence in the policies of the Union of India and also of the Govt. in force, we wish to highlight certain factual and ground realities relating to preparation as well as submission of Tax Audit and Other Reports required to be filed in case of certain class of individuals, HUF's, Firm, Companies and other assessee, which reports are required to be furnished electronically on or before 15/01/2022.

1. The Tax Audit Report Form (i.e Form 3CD) was amended wef 01/04/2021

This may please be appreciated that by virtue of notification dated 01/04/2021 [Notification No. 28/2021/F. No 370142/9/2018-TPL], the Income Tax Department has brought in new changes to Form 3CD which have made the reporting form more informative and more time taking.

2. **Form 3CA/ Form 3CB and Form 3CD were notified by the CBDT belatedly** only on 10/09/2021 and since then these forms are being updated. The last such update is dated 28/12/2021 as a result of which there is no certainty. In this regard, a screenshot from the e-filing website of the income tax department is being reproduced as under:

Common Offline Utilities

Common Offline Utilities for filing Statutory Income-tax forms (Enabled for Form 3CA-CD & 3CB-CD)

The form is enabled for AY 2021-22 and AY 2020-21, prior years would be available shortly.

This version can be used for Tax Audits in cases not involving large number of records. The next version will have CSV import/upload to accommodate large number of records in various schedule of the form.

[Form Utility](#)  (91.4 MB)

Date of first release of Form Utility 10-Sep-2021

Date of latest release of Form Utility 28-Dec-2021

[Form Schema](#)  (58 KB)

Date of first release of Form Schema 26-Oct-2021

Date of latest release of Form Schema 03-Dec-2021

[Schema Change Document](#)  (369 KB)

In-fact after preparing the tax audit report, it is not certain as to whether the updated form (as released by the Board) would be able to import the entire already completed information or otherwise. The Utility for the Preparation of Tax Audit Report for the Assessment Year 2021-22 which was first released on 10/09/2021 was not functional properly till the mid-of November 2021. Even after that, the recent updated version released in the first week of December, 2021 have several Issues like: -

The Data entered in the Clause 21(a) of the report reflects in the other clauses, Also the data entered in Clause 26(i)(B)(a) of the report is reflected in the Clause 26(i)(A)(a).

While the specified date (as referred under Section 44AB) of the Act was suo motto extended till 15/01/2022, it would be appreciated that the present request for extension is to be seen and appreciated in the light of the following further facts and latest developments:

- a. That there is **recent exponential surge in COVID cases** in many states (notably, Gujarat, Maharashtra, Delhi, Uttar Pradesh, etc). The CAGR increase in COVID cases is around 30% and it is being predicted that we (i.e. India) would be grappled in the third wave of COVID and the peaking would be soon.
- b. That as per WHO, **Omicron** has been coined as a variant of concern and the fate of western mighty world (such as USA, UK, France, Italy, Canada, Spain, Germany, Russia) from this variant of COVID is known to one and all.
- c. That as a result of the recent exponential surge in COVID cases, many states in India have already placed in motion, **restrictions on the working hours, night curfews, presence of staff in private offices, closure of many types of businesses etc.** The cumulative effect of these actions have only resulted in concentration of large number of assessee's on the e-filing portal only during specified hours and due to which the e-filing website of the Income tax department is slow.

Further, the effective number of working hours available with the professionals as a result of these fresh and latest restrictions have only decreased.

- d. That the launching of the **new portal of the income tax department**, it was believed would lead to augmentation of technology and would increase the prowess the stake holders and the users. However, ever since the new portal was launched on 7 June 2021, even after more than 6 months, the same is yet to settle down and function appropriately in a smooth

and seamless manner, due to which the taxpayers are ***facing unavoidable hardships and issues in making routine compliances***. Some such technical glitches, (though not exhaustive and only illustrative) are being delineated as under:

- Issues in accessing the details and data for earlier years;
- Issues in downloading Form No. 26AS;
- Issues in downloading ITR V and ITR forms after uploading;
- Issues in filing Tax Audit Reports in Form No. 3CA / 3CB and Form No. 3CD;
- Issues in registering legal heir;
- Issues in accessing the e-services and other features of the new portal;
- Trouble in filing Rectification Application under section 154 of the Act etc.

e. That the preparation and submission of tax audit reports is overlapping with other dates of compliances under other laws. This overlapping of the dates under Income Tax Act, GST and under the Companies Act, 2013 is only bringing confusion to the professional and tax payers. It is likely choosing paying lesser late fees.

Madam, while we are appreciative of the suo motto extension of this specified date earlier, we seek your kind and immediate intervention in the matter.

3. **It is stated with utmost respect that there are certain clauses in form 3CD wherein no updations have been made / carried out even after the law required so.**

a. Your goodself would appreciate the **amendment to section 40(a)(i) by Finance Act, (no.2) of 2014**, wherein reference to section 200(1) was omitted and was substituted with section 139(1). **Unfortunately no change was carried out in Form 3CD in corresponding clause no. 21.**

Thus there could be wrong/incorrect reporting in case of TDS on payments made to non-residents and Foreign Companies, wherein TDS deposited after date prescribed u/s 200(1) but before due date u/s 139(1), though allowable under the provisions of Act, would not be allowable and have to be so reported in Form 3CD.

b. Yet another example is **amendment to section 40(a)(ia) by Finance Act, (no.2) of 2014, wherein 30%** of the payment on which tax has not been deducted or having been deducted has not been deposited on or before the due date of filing Income Tax Return U/S 139(1). **Unfortunately clause 21 of present Form 3CD seeks details of disallowance where entire payment is required to be stated and not the 30% of the payment whereof.**

Madam, there are **similar other inconsistencies in Form 3CD which, in case time is permitted to us, could be well brought to your goodself's contentions.** We appreciate your stern ability as a leader and as a pragmatic person and are optimistic that at-least time would be given to us to make a presentation before you to highlight such infirmities in Form 3CD which are in consistence to the provisions of Income Tax Act.

We understand that similar other changes were suggested to the CBDT by our Alma Mater, ICAI, which have found not been considered in Form 3CD.

Madam, such an action, acceding thereby to our above request would only bring satisfaction and appreciation in the mind of the common man towards the tax laws as well as tax administration. It is submitted that your goodself will appreciate that these are some of the illustrative yet non exhaustive reasons, wherein, each reason so stated aforesaid, warrants, in bonafide circumstances, administrative action u/s 119(2)(a) of the Act, in public interest, extension of the due date referred in Explanation 2 to section 139(1) of the Act which would in-turn extend the specified date as referred

in Clause (ii) to Explanation appended below Section 44AB of the Act.

It is submitted that the extent and magnitude of the situation is not only inferable from above facts but also from the ground realities where umpteen Chartered Accountants across India are reeling under huge mental pressure and stress. Madam, while being consciously aware of our responsibilities of conducting tax audit it is submitted that in case appropriate time is not permitted, the quality of the Audit Reports may suffer and there would be then another set of protracted litigation for explaining 'reasonable cause'. It is implored that ever since the enactment of provisions of Section 44AB of the Act, the tax report of the chartered accountant is the initial set of documents which the AO are relying upon. Given the fact that the adjustment made in tax audit report are reckoned as suo motto adjustment as per Section 143(1)(a)(iv) of the Act goes on to prove the sanctity of the reports and the reliance of the department on the tax audit report.

Needless to state and plead that while being partners in nation building, this extension of specified date is not being sought by us for our self but in turn for small and medium size tax payer whole are in the peril of being subjected to penalty for late filing of tax audit reports. Under these circumstances, it is prayed as under:

S.No.	Particulars	Extended Due Date Requested
1	The due date of furnishing of Report of Audit under any provisions of the Act, which was 30 September 2021, and extended to 15 January 2022	15 th February 2022
2	The due date of furnishing of Return of Income, which was 31 October 2021 under section 139(1), and extended to 15 February 2022	15 th March 2022
3	The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act, which was 31 October 2021, and extended to 31 January 2022	15 th March 2022

We understand that there are adequate safe guards and mechanism under Income Tax Act to secure the interest of the Revenue. Yet, a prayer is being made to look into the interest of the common man also on just, bonafide as well as equitable grounds too. It is also implored that in-case your goodself is not in consonance with the above request, a specific press release may timely be issued so that we may add to our reeling stress.

With Warm Regards,

CA. Neha Agarwal
Co-Founder, Voice of CA